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by consent appearing from the husband's signature and acknowledgment. *Elliott v. Sleeper*, 2 N. H. 525; *Armstrong v. Stovall*, 26 Miss. 275; *Pease v. Bridge*, 49 Conn. 58; *Dentzel v. Waldie*, 30 Cal. 139.

ELECTION CONTEST—TIE VOTES—EFFECT.—Plaintiff received 95 votes, defendant 101, and a contest was instituted on grounds of malconduct of Judges in miscounting votes. On recount plaintiff and defendant each received 79 votes, which was the highest number of votes received by any of the candidates. *Held*, that, where two persons are found on an election contest to have received an equal and the highest number of votes, the contest is properly dismissed. *Wright v. Ashton* (1904), — Cal. —, 77 Pac. Rep. 477.

This decision is based on sections 1111, subds. 1-4: 1112: 1114, Code Civ. Proc. Section 1111 provides that the election of any person may be contested because of malconduct of election officers and on account of illegal votes. •Section 1112 provides that no irregularity or improper conduct in the proceedings of the Judges is such malconduct as to avoid an election unless the irregularity is such as to procure the person, whose right to the office is to be contested, to be declared elected when he has not received the highest number of votes. Plaintiff contended that the defendant did not receive the highest number of votes, but the court held that since 79 was the highest number of votes and the defendant received that number as well as the plaintiff, the irregularity was not such as to avoid the election. Section 1114 provides that nothing in section 1111 is to be so construed as to avoid an election, unless the deduction of the illegal votes will reduce the number cast for the person declared elected below the number of votes given to some other person. Clearly this is not done in this case. The decision of the court is supported by *Smith v. Thomas*, 121 Cal. 533. The dissenting Justice took the view that the question was one of great public importance and that no person should be retained who is found not to be elected. The right of the court to annul an election is based on section 1112, Code Civ. Proc., which provides for steps to be taken in case a court does annul an election.

INJUNCTION—SPECIAL INJURY—STREET IMPROVEMENT.—In pursuance of the authority of a resolution of the City Council, the owners of property within a certain half block set the curb four feet farther out toward the center of the street and began to widen the sidewalk. Complainant, a property owner on the same street, asked for an injunction, claiming that defendants were proceeding with the intention of forcing him and other property owners on the same street to widen their walks. *Held*, that the relief prayed for would not be granted. *Mitchell v. The City of Peru* (1904), — Ind. —, 71 N. E. Rep. 132.

This decision undoubtedly follows the general rule that an injunction will not be granted at the suit of a private party, to restrain acts affecting the public, unless such private party can show some special and irreparable injury to himself, distinct from that suffered by the public at large. *Pomeroys's Eq. Jur.*, Section 1349; *Town of Marion v. Skillman*, 127 Ind. 130. The court specifically pointed out that complainant suffered no such special damage, but that the improvement would merely cause him and other prop-